

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/KK

RIO CHAMA STREAM SYSTEM

Section 7: Rito de Tierra Amarilla

**ORDER MAKING FINAL DETERMINATION OF
IRRIGATION WATER REQUIREMENTS IN
THE RITO DE TIERRA AMARILLA SUBSECTION OF
SECTION 7 OF THE RIO CHAMA STREAM SYSTEM**

THIS MATTER is before the Court on the *Motion by the State of New Mexico for Order Making Final Determination of Irrigation Water Requirements in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System* (Doc._____, filed _____, 2017) (“*Motion*”).

Having reviewed the *Motion* and being otherwise fully advised in the premises, I find the request to be well-taken, and that it should be GRANTED. Further, the Court FINDS that:

Each of the individual subfile defendants, the United States and the Commissioners of each Community Ditch in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System (“Tierra Amarilla Subsection”) were served with the Court’s *Notice and Order to Show Cause* in connection with the determination irrigation water requirements in the Tierra Amarilla Subsection.

The Court’s *Notice and Order to Show Cause* was published as required in the Rio Grande

Sun once each week for four (4) consecutive weeks, the first publication being on the 3rd day of June, 2010, and the last publication being on the 24th day of June, 2010.

Notice of the State's proposed determination of irrigation water requirements in the Tierra Amarilla Subsection has been provided to all claimants, known and unknown, who may claim or have a right to use the surface waters or underground waters of the Tierra Amarilla Subsection.

The Court's Notice and Order to Show Cause required all claimants who disagree with the proposed determination of the irrigation water requirements in the Tierra Amarilla Subsection, to file an objection by July 31, 2010.

The Tierra Amarilla Community Ditch and the Asociación de Acéquias Norteñas de Rio Arriba have withdrawn their objections to the State's proposed determination of the irrigation water requirements in the Tierra Amarilla Subsection. *Motion* at 3, Ex. 1.

The Chama Valley Independent School District No. 19 has withdrawn its objections to the State's proposed determination of the irrigation water requirements in the Tierra Amarilla Subsection. *Motion* at 3, Ex. 2.

Objections filed by Colomex Oil and Gas Co. (Doc. 9914, filed July 22, 2010) and Lionel Martinez (Doc. 9930, filed August 4, 2010) were dismissed by the Court in an order dated January 5, 2011 (Doc. 9993).

No other objections to the proposed determination of the irrigation water requirements in the Tierra Amarilla Subsection were filed with the Court.

There is no just reason for delay of the entry of a final judgment as to the irrigation water requirements in the Tierra Amarilla Subsection, and the Court enters this Order as a final judgment as to the irrigation water requirements of the water rights described herein. This final judgment precludes all persons, known and unknown, who claim a right to use the surface or

underground waters of the Tierra Amarilla Subsection from making any and all objections to the irrigation water requirements described herein during future *inter se* proceedings.

IT IS THEREFORE ORDERED that the irrigation water requirements for surface water irrigation use in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System are as set forth below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.63 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.38 acre-feet per acre per annum.

The term “Consumptive Irrigation Requirement” (“CIR”) refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term “Farm Delivery Requirement” (“FDR”) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The “Project Diversion Requirement” (“PDR”) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockwatering, stockponds, or other impoundments determined to have valid water rights in these proceedings.

IT IS FURTHER ORDERED that the amount of water for surface water irrigation use described in individual subfile orders in the Rito de Tierra Amarilla Subsection of Section 7 of the

Rio Chama Stream System are adjudicated as follows:

A. All individual subfile orders entered by the Court for surface water irrigation use in the Tierra Amarilla Subsection are amended to incorporate in the description of water rights the irrigation water requirements described above, as summarized and set forth in the Appendix attached hereto.

B. For all water rights involving surface water delivered from a ditch for irrigation purposes, the amount of water shall not exceed 4.38 acre-feet per acre per annum diverted by the ditch from the surface source, or 2.63 acre-feet per acre per annum delivered to the farm headgate, or a beneficial consumptive use of 1.05 acre-feet per acre per annum.

C. Any diversion and use of the waters of the Rio Chama Stream System in the Rio Tierra Amarilla Subsection by any defendant except in strict accordance with the water rights described herein is prohibited.

IT IS FURTHER ORDERED that the determination of the irrigation water requirements (CIR, FDR, PDR) in the Tierra Amarilla Subsection shall not be construed to limit the authority of the state engineer or the water master duly appointed by the state engineer under NMSA 1978, Sections 73-3-2 through 73-3-5 and rules promulgated pursuant to NMSA 1978, Section 72-2-9.1, including Specific Duties of a Water Master under 19.25.13.17 NMAC.

IT IS SO ORDERED.

MARTHA VÁSQUEZ
UNITED STATES DISTRICT JUDGE

Approved:

KIRTAN KHALSA
UNITED STATES MAGISTRATE JUDGE

**APPENDIX TO ORDER MAKING FINAL DETERMINATION
OF IRRIGATION WATER REQUIREMENTS IN THE
RITO DE TIERRA AMARILLA SUBSECTION OF
SECTION 7 OF THE RIO CHAMA STREAM SYSTEM**

ISHMAEL ULIBARRI DITCH

Priority: 1870

An amount of water not to exceed:

a CIR of 1.05 acre-feet per acre per annum, or
a FDR of 2.63 acre-feet per acre per annum, or
a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-001-0003 | A | 6.4 | SD 08549-1 |

SENA DITCH

Priority: 1870

a CIR of 1.05 acre-feet per acre per annum, or
a FDR of 2.63 acre-feet per acre per annum, or
a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-001-0001 | A | 42.3 | SD 06383-1 |
| CHTA-001-0002 | A | 44.1 | SD 06383-4 |
| CHTA-001-0005 | A | 4.0 | SD 06383-5 |

NUTRITAS DITCH NO.1

Priority: 1870

a CIR of 1.05 acre-feet per acre per annum, or
a FDR of 2.63 acre-feet per acre per annum, or
a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-001-0001 | B | 2.9 | SD 06370-2 |
| CHTA-001-0002 | B | 33.1 | SD 06370-1 |

UNNAMED DITCH NO. 1

Priority: 1870

a CIR of 1.05 acre-feet per acre per annum, or
a FDR of 2.63 acre-feet per acre per annum, or
a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-001-0001 | C | 9.2 | SD 06370-3 |

LUJAN DITCH

Priority: 1870

a CIR of 1.05 acre-feet per acre per annum, or
a FDR of 2.63 acre-feet per acre per annum, or
a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-002-0001 | A | 2.3 | SD 06367-1 |
| CHTA-002-0002 | A | 3.6 | SD 06367-2 |

LABRIER DITCH

Priority: 1870

a CIR of 1.05 acre-feet per acre per annum, or
a FDR of 2.63 acre-feet per acre per annum, or
a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-002-0002 | B | 27.8 | SD 06366-1 |
| CHTA-003-0001 | A | 9.1 | SD 06366-2 |

NUTRITAS DITCH NO. 2

Priority: 1861

a CIR of 1.05 acre-feet per acre per annum, or
 a FDR of 2.63 acre-feet per acre per annum, or
 a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-003-0011 | A | 5.6 | SD 06379-1 |

TIERRA AMARILLA COMMUNITY DITCH

Priority: 1861

a CIR of 1.05 acre-feet per acre per annum, or
 a FDR of 2.63 acre-feet per acre per annum, or
 a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-003-0002 | A | 4.4 | SD 00430-2 |
| CHTA-003-0003 | A | 1.1 | SD 00430-3 |
| CHTA-003-0004 | A | 4.1 | SD 00430-4 |
| CHTA-003-0005 | A | 14.0 | SD 00430-5 |
| CHTA-003-0006 | A | 17.6 | SD 00430-6 |
| CHTA-003-0007 | A | 0.5 | SD 00430-7 |
| CHTA-003-0008A | A | 0.4 | SD 00430-137 |
| CHTA-003-0008B | A | 1.0 | SD 00430-138 |
| CHTA-003-0008C | A | 1.0 | SD 00430-134 |
| CHTA-003-0008D | A | 4.7 | SD 00430-141 |
| CHTA-003-0008E | A | 0.5 | SD 00430-142 |
| CHTA-003-0009 | A | 11.4 | SD 00430-9 |
| CHTA-003-0010 | A | 0.9 | SD 00430-10 |
| CHTA-003-0012A | A | 2.6 | SD 00430-11 |
| CHTA-003-0012B | A | 2.1 | SD 00430-13 |
| CHTA-003-0013A | A | 2.7 | SD 00430-126 |
| CHTA-003-0013B | A | 2.0 | SD 00430-139 |
| CHTA-003-0015 | A | 2.5 | SD 00430-16 |
| CHTA-003-0016 | A | 5.5 | SD 00430-17 |
| CHTA-003-0017 | A | 3.7 | SD 00430-18 |
| CHTA-003-0018 | A | 3.3 | SD 00430-19 |
| CHTA-003-0019 | A | 9.2 | SD 00430-20 |
| CHTA-003-0020 | A | 4.1 | SD 00430-21 |

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|----------------|---|------|--------------|
| CHTA-003-0020 | B | 20.9 | SD 00430-22 |
| CHTA-003-0021 | A | 4.4 | SD 00430-23 |
| CHTA-003-0022 | A | 1.2 | SD 00430-24 |
| CHTA-003-0023 | A | 1.2 | SD 00430-25 |
| CHTA-003-0024 | A | 1.8 | SD 00430-26 |
| CHTA-003-0024 | B | 0.3 | SD 00430-27 |
| CHTA-003-0024A | A | 0.3 | SD 00430-136 |
| CHTA-003-0025 | A | 2.4 | SD 00430-28 |
| CHTA-003-0027 | A | 3.1 | SD 00430-30 |
| CHTA-003-0031 | A | 0.6 | SD 00430-34 |
| CHTA-003-0032 | A | 1.0 | SD 00430-35 |
| CHTA-003-0034 | A | 1.6 | SD 00430-37 |
| CHTA-003-0036 | A | 3.2 | SD 00430-39 |
| CHTA-003-0037 | A | 1.5 | SD 00430-40 |
| CHTA-003-0038 | A | 5.4 | SD 00430-41 |
| CHTA-003-0039A | A | 3.0 | SD 00430-123 |
| CHTA-003-0040 | A | 1.7 | SD 00430-45 |
| CHTA-003-0041 | A | 1.3 | SD 00430-46 |
| CHTA-003-0042 | A | 1.4 | SD 00430-47 |
| CHTA-003-0043 | A | 8.5 | SD 00430-49 |
| CHTA-003-0044 | A | 1.6 | SD 00430-51 |
| CHTA-003-0045 | A | 1.4 | SD 00430-52 |
| CHTA-003-0046 | A | 3.1 | SD 00430-53 |
| CHTA-003-0047 | A | 1.7 | SD 00430-54 |
| CHTA-003-0048 | A | 0.6 | SD 00430-55 |
| CHTA-003-0049 | A | 4.0 | SD 00430-56 |
| CHTA-003-0050 | A | 3.2 | SD 00430-57 |
| CHTA-003-0051 | A | 0.4 | SD 00430-58 |
| CHTA-003-0051A | A | 0.1 | SD 00430-124 |
| CHTA-003-0052 | A | 0.3 | SD 00430-59 |
| CHTA-003-0053 | A | 0.4 | SD 00430-122 |
| CHTA-003-0054 | A | 1.9 | SD 00430-117 |
| CHTA-003-0054 | B | 0.4 | SD 00430-118 |
| CHTA-003-0055 | A | 0.3 | SD 00430-133 |
| CHTA-003-0056 | A | 0.2 | SD 00430-143 |
| CHTA-003-0057 | A | 0.1 | SD 00430-145 |
| CHTA-004-0001A | A | 1.1 | SD 00430-61 |
| CHTA-004-0001B | A | 1.3 | SD 00430-62 |
| CHTA-004-0001C | A | 1.3 | SD 00430-63 |
| CHTA-004-0001D | A | 1.3 | SD 00430-64 |
| CHTA-004-0001E | A | 1.3 | SD 00430-65 |
| CHTA-004-0001F | A | 1.3 | SD 00430-66 |
| CHTA-004-0002 | A | 1.1 | SD 00430-67 |
| CHTA-004-0003 | A | 0.03 | SD 00430-68 |
| CHTA-004-0004 | A | 0.3 | SD 00430-69 |
| CHTA-004-0005A | A | 1.6 | SD 00430-71 |

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| CHTA-004-0005B | A | 1.0 | SD 00430-72 |
| CHTA-004-0005C | A | 5.8 | SD 00430-73 |
| CHTA-004-0006 | A | 1.0 | SD 00430-74 |
| CHTA-004-0006A | A | 0.2 | SD 00430-112 |
| CHTA-004-0007 | A | 0.9 | SD 00430-75 |
| CHTA-004-0008 | A | 4.2 | SD 00430-76 |
| CHTA-004-0009A | A | 6.6 | SD 00430-131 |
| CHTA-004-0009B | A | 0.2 | SD 00430-132 |
| CHTA-004-0010 | A | 7.8 | SD 00430-78 |
| CHTA-004-0011 | A | 43.6 | SD 00430-79 |
| CHTA-004-0011 | B | 0.9 | SD 00430-80 |
| CHTA-004-0012 | A | 1.5 | SD 00430-82 |
| CHTA-004-0012A | A | 0.2 | SD 00430-144 |
| CHTA-004-0013 | A | 4.1 | SD 00430-83 |
| CHTA-004-0013A | A | 0.5 | SD 00430-140 |
| CHTA-004-0014A | A | 2.8 | SD 00430-121 |
| CHTA-004-0014B | A | 0.3 | SD 00430-130 |
| CHTA-004-0015 | A | 5.0 | SD 00430-85 |
| CHTA-004-0016A | A | 10.0 | SD 00430-86 |
| CHTA-004-0016B | A | 2.7 | SD 00430-115 |
| CHTA-004-0017 | A | 0.8 | SD 00430-88 |
| CHTA-004-0018 | A | 4.9 | SD 00430-89 |
| CHTA-004-0019 | A | 10.1 | SD 00430-90 |
| CHTA-004-0020 | A | 19.3 | SD 00430-91 |
| CHTA-004-0021A | A | 1.2 | SD 00430-92 |
| CHTA-004-0021B | A | 0.7 | SD 00430-116 |
| CHTA-004-0021C | A | 0.3 | SD 00430-135 |
| CHTA-004-0022 | A | 3.2 | SD 00430-93 |
| CHTA-004-0023 | A | 0.3 | SD 00430-94 |
| CHTA-004-0024 | A | 56.5 | SD 00430-95 |
| CHTA-004-0024 | B | 0.4 | SD 00430-96 |
| CHTA-004-0025 | A | 2.3 | SD 00430-97 |
| CHTA-004-0026 | A | 2.2 | SD 00430-98 |
| CHTA-004-0027A | A | 3.1 | SD 00430-99 |
| CHTA-004-0027B | A | 6.8 | SD 00430-100 |
| CHTA-004-0028 | A | 0.7 | SD 00430-101 |
| CHTA-004-0029 | A | 1.8 | SD 00430-102 |
| CHTA-004-0031 | A | 8.5 | SD 00430-103 |
| CHTA-004-0032 | A | 1.0 | SD 00430-114 |
| CHTA-004-0033 | A | 1.1 | SD 00430-105 |
| CHTA-004-0034 | A | 3.6 | SD 00430-106 |
| CHTA-004-0035 | A | 9.0 | SD 00430-107 |
| CHTA-004-0036 | A | 13.8 | SD 00430-108 |
| CHTA-004-0037 | A | 11.7 | SD 00430-109 |
| CHTA-004-0038 | A | 34.7 | SD 00430-110 |
| CHTA-004-0039A | A | 2.4 | SD 00430-146 |

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| CHTA-004-0040 | A | 3.0 | SD 00430-127 |
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TRUJILLO DITCH

Priority: 1887

a CIR of 1.05 acre-feet per acre per annum, or
a FDR of 2.63 acre-feet per acre per annum, or
a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-005-0001 | A | 7.8 | SD 06384-1 |

MANZANARES DITCH

Priority: 1887

a CIR of 1.05 acre-feet per acre per annum, or
a FDR of 2.63 acre-feet per acre per annum, or
a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-005-0002 | A | 12.2 | SD 06368-1 |

UNNAMED DITCH NO. 2

Priority: 1887

a CIR of 1.05 acre-feet per acre per annum, or
a FDR of 2.63 acre-feet per acre per annum, or
a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-005-0001 | B | 13.9 | SD 06385-1 |
| CHTA-005-0002 | B | 6.9 | SD 06368-2 |

BRIGGS DITCH

Priority: 1887

a CIR of 1.05 acre-feet per acre per annum, or
a FDR of 2.63 acre-feet per acre per annum, or
a PDR of 4.38 acre-feet per acre per annum.

| <u>Subfiles</u> | <u>Header</u> | <u>Acres</u> | <u>OSE File Number</u> |
|-----------------|---------------|--------------|------------------------|
| CHTA-005-0003 | A | 23.8 | SD 03169-1 |
| CHTA-005-0004 | A | 11.5 | SD 03169-2 |